PREME COURT. U. S.

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IN THE

Supreme Court of the United States

October Term, 1968.

No. 844.

PAUL G. STEPHAN and JANE A. STEPHAN,
Appellants,

v.

STATE TAX COMMISSIONER OF THE STATE OF DELAWARE
Appellee.

Appeal From the Supreme Court of Delaware.

REQUEST FOR REHEARING.

PAUL G. STEPHAN,
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This request is made under the belief that the court's refusal to grant a hearing in the above case was unjust and based on improper grounds.

It should be noted that the State's Motion to Dismiss was based as follows:

> "There is no substantial Federal question. *Therefore,* the appeal or request for certiorari should be dismissed."

Yet, the ruling of this court stated:

> "The motion to dismiss is granted and the appeal is dismissed for want of jurisdiction."

It is obvious that there is a discrepancy of grounds for such dismissal. Further comment is in order regarding either set of grounds considered.

The State's motion contains an appalling misrepresentation of facts in their attempt to convince the Court that non-resident workers in Delaware do not contribute to the economy of the State. Limiting our contributions to a cup of coffee a day surely must be considered as a ridiculous statement and in poor taste. The facts are that most of the non-resident workers in this area spend the majority of their expendable income within the State of Delaware. Strong indication of this circumstance came in the form of a Letter to the Editor printed in the Evening Journal—Wilmington Paper—on Thursday, April 17, 1969. This letter is in response to the current proposal in Delaware Legislature to install a sales tax and is quoted in part as follows:

> "For many years Delaware business establishments have benefited by purchases made by out-of-state customers. This has not come about because we have more to offer these consumers, but because they save the sales tax imposed by their states.
> Now those who are trying to run our state have proposed a 2 per cent sales tax. What a stupid mistake this would be."
>
> . . .

The writer is wrongly concerned about the effect of a Delaware sales tax in that the bulk of our purchases are for items untaxed in Penna. such as food and clothing and the large items such as automobiles are taxed in Penna. re-

gardless of their point of purchase. The real reason for the strong economic support in Delaware is geography and the nature of the development of the area. However, the impression that Delaware business benefits from non-residents is quite real.

The fact of substantial Federal question cannot be realistically denied when it is noted that the discriminations pointed out in our Jurisdictional Statement are perpetrated against 12,000 or more non-resident workers in Delaware from Penna. alone. These workers contribute many millions of dollars per year toward the business economy of the State and then are required to contribute directly millions more in the form of taxes which are used primarily for the sole benefit of Delaware residents to the expressed exclusion of the non-resident.

In regard to the question of jurisdiction, it should be noted that the State has made no claim that this Court does not have jurisdiction in this matter. In fact, starting with the original hearing before the Tax Board, they have repeatedly indicated their belief that this is a Federal question. Their defense is not based on whether the jurisdiction of this Court applies in the matter of constitutionality but rather whether their particular form of admitted discrimination is a violation of constitutional rights of the individual.

It is clear that this matter involves a constitutional question of great importance between a State and the residents of another State. It is also clear that this set of circumstances fully meets the requirements set forth in Title 28, USC, Sec. 1257(2). In all fairness to the many thousand citizens who are effected by your decision, you should grant this hearing in order to hear the full particulars of the nature and degree of discriminations perpetrated by the State of Delaware against the non-resident workers.

Therefore, we respectfully request a rehearing and the granting of a hearing to the grievances of the Appellants.

PAUL G. STEPHAN, *Pro se.*

Date .....

This is to certify that the required copies of this request are served upon the Appellee.

This petition is submitted in good faith and in strong conviction of the right of the cause and not for purposes of delay.